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Acts of Lafayette
ACTS,

PASSED AT

A SPECIAL SESSION

OF THE

GENERAL ASSEMBLY

OF THE

TERRITORY OF ARKANSAS:

WHICH WAS BEGUN AND HELD AT THE TOWN OF LITTLE ROCK,
ON MONDAY, THE SIXTH DAY OF OCTOBER, AND ENDED ON
WEDNESDAY, THE TWENTY-SECOND DAY OF OCTOBER, ONE
THOUSAND EIGHT HUNDRED AND TWENTY-EIGHT, PURSUANT
TO A PROCLAMATION OF THE GOVERNOR, DATED TWENTIETH
JUNE, 1828.

PUBLISHED BY AUTHORITY.

LITTLE ROCK:

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1828.

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ACTS

OF THE

TERRITORY OF ARKANSAS,

PASSED BY THE GENERAL ASSEMBLY, AT A SPECIAL SESSION, WHICH WAS BEGUN AND HELD AT LITTLE ROCK, ON MONDAY, THE SIXTH DAY OF OCTOBER, AND ENDED ON WEDNESDAY, THE TWENTY-SECOND DAY OF OCTOBER, ONE THOUSAND EIGHT HUNDRED AND TWENTY-EIGHT.

An act supplementary to an act passed at the session of 1827, entitled "an act to locate the seat of justice of the county of St. Francis."

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That Charles Shaver and Archibald McDanald, citizens of the county of St. Francis, be, and they are hereby, appointed commissioners, to act in conjunction with Edward Oliver, Samuel Fil-lingim, and John Carothers, the commissioners heretofore elected, in locating the seat of justice in and for the county of St. Francis.

Commission-
ers appointed
to act in con-
junction with
those appoint-
ed by the act
of 1827.

Sec. 2. *And be it further enacted*, That the commissioners hereby appointed, shall take the same oath, possess the same powers, perform the same duties, and receive the same compensation, as the commissioners heretofore elected, as is provided for by the law to which this is a supplement.

To be quali-
fied in same
manner and
receive same
compensation

Sec. 3. And be it further enacted, That the commissioners appointed and elected to locate the seat of justice of said county, shall, on the second Monday of November next, assemble together at the house of John Bollinger, in said county, and proceed to make the location without delay.

Sec. 4. And be it further enacted, That it shall be the duty of said commissioners, in body, to view and personally examine whatever place they may deem proper for the location.

Sec. 5. And be it further enacted, That the said commissioners shall make a final location, on or before the first day of December next, or as soon thereafter as practicable, and shall proceed to discharge the duties imposed by the act passed at the session of 1827, for the location of the seat of justice of the county of St. Francis.

Sec. 6. And be it further enacted, That a majority of the commissioners, attending at the time appointed for their meeting, shall make the location, and that the commissioners in the minority shall proceed to discharge the duties imposed by the act aforesaid, in concert with the majority, and that at all meetings of the commissioners a majority present shall always rule.

Sec. 7. And be it further enacted, That if any location has been made by the commissioners heretofore elected, the same shall be, and is hereby, rendered null and void and of no effect.

Sec. 8. And be it further enacted, That all acts and parts of acts repugnant to, or inconsistent with, the provisions of this act, be, and the same are hereby, repealed.

Sec. 9. *And be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the House of Representatives.
 EDWIN T. CLARK, *President*
of the Legislative Council.

Approved : October 17, 1828.

GEO. IZARD.

An act to erect and establish the county of Sevier.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That all that portion of the counties of Hempstead and Miller, included within the boundaries following, to wit : Beginning on Red river, at the point Boundaries. where the Choctaw line strikes the same, and running thence due south to the Louisiana or Mexican line ; thence east with said line to the western boundary line of Lafayette county ; thence due north with said line to Red river ; thence down and with said river to a point opposite the mouth of bayou Saline ; thence due north to the mouth of said bayou ; thence up and with the same to the mouth of Mine creek ; thence up said creek to the point where the line between ranges twenty-seven and twenty-eight crosses the same ; thence north with said line to the southern boundary line of Clark county ; thence due west to the Choctaw line, and thence south with said line to the beginning, be, and the same hereby is, erected into a separate and distinct county, to be called and known by the name of Sevier county.

Sec. 2. *Be it further enacted*, That, from and after the taking effect of this act, the said Privileges. county of Sevier shall have and possess all the

Proceedings in certain cases to be removed to, and tried in Sevier county.

Executions in certain cases to be transferred to sheriff of Sevier co.

Administrators, executors, or guardians, may remove proceedings to, & make settlement in, Sevier county.

powers, privileges, and immunities, of a separate and distinct county; and that in all suits and prosecutions, both of a civil and criminal nature, pending in the circuit court either of the county of Hempstead or Miller, at the time this act takes effect, against any person or persons residing in the county hereby established, it shall be the duty of the plaintiff, in civil, and of the prosecuting attorney, in all criminal or other cases, where the United States is a party, to procure from the clerk of the circuit court of the said county of Hempstead or Miller, as the case may be, a faithful transcript of all records and proceedings, and of any and all depositions and other papers on file in his office, and file the same, or cause it to be done, on or before the commencement of the first term of the circuit court to be holden for said county of Sevier, with the clerk of said court; and all executions that may be issued at the taking effect of this act, upon judgments rendered in the circuit court of the county of Hempstead or Miller, against persons residing in the said county of Sevier, for any debt, fine, or forfeiture, or other matter, that shall be due, under such process or proceedings in the hands of, or served by, the sheriff of either of said counties, shall be handed over to the proper officer of the said county of Sevier; and all administrators, executors, and guardians, who shall now live in the county hereby established, and who may have, before the taking effect of this act, administered on any estate, or have taken on him, her, or them, the execution of any last will and testament, or guardianship, within that part of either of the said counties of Hempstead or Miller, hereby made the county of Sevier, such executor, administrator, or guardian, shall be at liberty to obtain a copy of their respective

cases, and file the same in the office of the clerk of the circuit court of the said county of Sevier, and make final settlement in said county, as they might, could, or would, have done, in the counties of Hempstead or Miller aforesaid.

Sec. 3. *Be it further enacted*, That any person acting as a justice of the peace, in that part of the county of Hempstead or Miller, who shall be included within the bounds of Sevier, hereby established, shall be, and continue, justices of the peace for the said county of Sevier, and shall possess the same powers, and proceed in all cases in the same manner, both in suits now commenced and that hereafter may be commenced, as though this law had not been passed, changing only the name in said proceedings, and conforming to the limits of Sevier county, aforesaid, instead of Hempstead or Miller.

Commissions of justices of the peace heretofore granted to be applicable to Sevier co'y.

Sec. 4. *Be it further enacted*, That the temporary seat of justice for the county of Sevier, hereby established, shall be at the house of Joseph English, until otherwise provided for by law; and all executions, and other process, issued by the clerk of either of the circuit courts of the county of Hempstead or Miller, aforesaid, against any person or persons residing in said county of Sevier, as mentioned in the second section of this act; and all transcripts of records, papers, and depositions, on file, required by said second section to be filed in the office of the clerk of the circuit court of said county of Sevier, shall have the same force and effect at the said temporary seat of justice, as they would or could have had at the respective places of holding courts, either in the county of Hempstead or Miller aforesaid.

Seat of justice established.

Executions, &c. to have the same force at the temporary seat of justice as at those where they emanated.

Sec. 5. *Be it further enacted*, That this act shall take effect, and be in force, from and after the first day of November next.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 17, 1828.

GEO. IZARD.

An act to lay off and erect a new county, in the north-west part of the Territory of Arkansas, to be called and known by the name of Washington.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That all that portion of country bounded and described as follows, to wit: Beginning at a point where the western boundary line of the territory strikes the northern boundary line of town twelve north; thence east with the northern boundary line of town twelve north to the western boundary line of range twenty-five west; thence north with said line to the southern boundary line of the state of Missouri; thence west with said boundary line to the south-west corner of the state of Missouri; thence south with the western boundary line of the territory of Arkansas to the beginning, be constituted and erected into a new county, to be called and known by the name of Washington; and henceforth the county of Loveley shall be extinguished.

Washington
county erect-
ed, and boun-
daries.

Loveley co'y.
extinguished.

Privileges.

Sec. 2. *And be it further enacted*, That, from and after the taking effect of this act, the county hereby established shall be vested with all the privileges, powers, and immunities, of a separate and distinct county.

Sec. 3. *And be it further enacted*, That this act shall take effect, and be in force, from and after the first day of November next.

JOHN WILSON, *Speaker*
of the *House of Representatives*.

EDWIN T. CLARK, *President*
of the *Legislative Council*.

Approved : October 17, 1828.

GEO. IZARD.

An act supplementary to the several laws for the collection of small debts.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That the first section of an act, entitled "an act in amendment to the act relative to writs of certiorari," approved the second day of November, 1825, be, and the same is hereby, revived, re-enacted, and declared to be in full force, in this territory, any law to the contrary notwithstanding. 1st section of former act revived.

Sec. 2. *Be it further enacted*, That this act shall take effect, and be in force, from and after the first day of December next.

JOHN WILSON, *Speaker*
of the *House of Representatives*.

EDWIN T. CLARK, *President*
of the *Legislative Council*.

Approved : October 20, 1828.

GEO. IZARD.

An act to change the location of the seat of justice in the county of Miller.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That, from

and after the taking effect of this act, the circuit court for the county of Miller shall be held at, or near, the house of Gabriel N. Martin, on the south side of Red river, which is hereby declared to be the temporary seat of justice for said county.

Sec. 2. *Be it further enacted,* That it shall be, and is hereby, made the duty of the clerk of the circuit court of the said county of Miller, to remove, within thirty days from and after the passage of this act, all papers, vouchers, and records, belonging, or in any wise appertaining, to said office, to the south side of Red river, at, or within three miles of, the house of Gabriel N. Martin, aforesaid; and all writs, process, and suits, pending, of every kind, that are, or may be, made returnable at the house of Claybourn Wright, the now place of holding courts in said county of Miller, shall have day, and in every particular, have the same force and effect, and be acted on and considered in the same way as they would have been at the house of Claybourn Wright, aforesaid, in the event that this act had never passed.

Temporary seat of justice of Miller co. to remove records of his office within 30 d's. to the temporary seat of justice.

Process, &c. returnable to former seat of justice to be acted on at the seat established by this act.

Sec. 3. *Be it further enacted,* That all acts, and parts of acts, coming within the purview of this act, shall be, and the same are hereby, repealed.

Previous acts repealed.

Sec. 4. *Be it further enacted,* That this act shall take effect, and be in force, from and after the passage thereof.

JOHN WILSON, *Speaker*
of the *House of Representatives.*
EDWIN T. CLARK, *President*
of the *Legislative Council.*

Approved : October 20, 1828.

GEO. IZARD.

An act for the relief of the heirs of Carlos Villemont.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas,* That Catharine Villemont, widow and administratrix of the late Carlos Villemont, deceased, John Gibson, and Matilda, his wife, Carlos Villemont, Pedro Villemont, Louis Villemont, in behalf of themselves, and Villemont Ursain Villemont, Zoe Villemont, and Virginia Villemont, infant heirs of the said Carlos Villemont, deceased, be, and they are hereby, authorized and empowered to sell and dispose of a certain tract of land, situate on the Arkansas river, in the county of Arkansas, and to seal, sign, and deliver, to the purchaser, any deed, or instrument of writing, that may be deemed necessary and effectual in law and equity, to convey all the right, title, and estate, of the said Carlos Villemont, deceased, in said tract of land, any law to the contrary notwithstanding.

Widow & representatives of C. Villemont authorized to sell a certain tract of land.

Sec. 2. *And be it further enacted;* That this act shall take effect, and be in force, from and after the passage thereof.

JOHN WILSON, *Speaker*
of the *House of Representatives.*

EDWIN T. CLARK, *President*
of the *Legislative Council.*

Approved: October 20, 1828.

GEO. IZARD.

An act supplementary to "an act to fix permanently the seat of justice in and for the county of Hempstead, and for other purposes."

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas,* That Daniel T. Witter, Absolam Mading, and Edward Cross, be, and they are hereby, appointed trustees for

Trustees for the town of Washington appointed.

the town of Washington, in the county of Hempstead, in the place of James Moss, Elijah Stuart, Huet Bert, Merideth W. Edwards, and Samuel Davis.

To let out
building of
jail.

Sec. 2. *Be it further enacted,* That the said trustees shall, so soon as may be after the taking effect of this act, proceed to give notice, by at least one advertisement set up at the most public place in each township in said county, that they will, at a certain time, which time shall not be less than thirty nor more than sixty days, proceed to let out to the lowest bidder, the building of a good and sufficient jail for said county, in the town of Washington.

Required to
take bond of
undertaker.

Condition.

Sec. 3. *Be it further enacted,* That the said trustees shall take from the undertaker of the building of said jail, bond with good and sufficient security, payable to themselves, as trustees for the said town of Washington, and their successors in office, in double the sum contracted for, that the contract so entered into with said trustees shall be faithfully performed; and if the person or persons so contracting, fail to comply, it shall be the duty of the prosecuting attorney to sue on said bond, in the name of the trustees, or their successors in office, as the case may be, and the penalty so recovered shall be paid into the county treasury of said county, and the trustees shall contract with some other person in manner aforesaid, for the completion of said building.

Trustees au-
thorized to
draw on the
county trea-
surer.

Sec. 4. *Be it further enacted,* That if the money, notes, and accounts, received of their predecessors in office, should be insufficient to pay for said building, the said trustees is hereby authorized to draw on the treasurer of the county aforesaid, for the amount of funds in said treasury unappropriated; and if the two sums so received shall be insufficient, the judge of the circuit court is hereby authorized, on the appli-

cation of the trustees as aforesaid, to levy a tax on all property taxable for county purposes, to supply such deficiency; *provided, however, that* the said jail shall not cost, in all, a sum not exceeding twelve hundred dollars.

Sec. 5. *Be it further enacted*, That the aforesaid James Moss, Elijah Stuart, Huet Bert, Merideth W. Edwards, and Samuel Davis, be, and they are hereby, required to pay over, and deliver to, their successors in office, created by this act, all the money by them received as trustees, together with all the notes, bonds, and obligations, by them taken, for the sale of lots in said town of Washington, together with a fair map of the town, and all other effects pertaining thereto.

Sec. 6. *Be it further enacted*, That if said trustees shall neglect or refuse to comply with the fifth section of this act, it shall be the duty of the prosecuting attorney to commence suit against them, the said trustees, in the name of their successors in office, for the benefit of said county.

Sec. 7. *Be it further enacted*, That in case of vacancies, by death, resignation, or otherwise, it shall be the duty of the circuit court to appoint some fit person to fill such vacancy; *provided, however, that* any person acting as trustee as aforesaid, shall take the same oath, perform the same duties, as is required by the act to which this is a supplement, and be entitled to such reasonable compensation as the circuit court may think fit to allow, to be paid out of any money in their hands, from the sale of lots in the said town of Washington.

Sec. 8. *Be it further enacted*, That this act

shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the House of Representatives.
 EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 20, 1826.

GEO. IZARD.

An act regulating the manner in which judgments shall be confessed.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas,* That in all

Persons in whose favor judgments shall hereafter be confessed required to make affidavit, &c.

cases hereafter, where any person or persons shall confess a judgment, the party to whom judgment is entered in favor of, shall, before the entering of the same, make oath or affirmation that the amount so confessed is justly due him, for and in consideration for cash, services, &c. as the case may be, and not to defraud, conceal, or in any manner keep the property of the said person from the just demand of any person or persons to whom he may be indebted, but for his own proper use, benefit, and security, for a just debt due, for the amount so confessed.

Penalty for making oath as aforesaid.

Sec. 2. *And be it further enacted,* That if any person or persons shall, for fraudulent purposes, make oath, as prescribed by the first section of this act, the person or persons, so swearing, for fraudulent purposes, shall, on conviction of the same, be adjudged guilty, and shall suffer all the pains and penalties of perjury, as now prescribed by law.

Sec. 3. *And be it further enacted,* That all

acts, and parts of acts, coming within the pur- Other acts
view of this act, be, and the same are hereby, repealed.
repealed.

Sec. 4. *And be it further enacted,* That this
act shall take effect, and be in force, from and
after its passage.

JOHN WILSON, *Speaker*
of the House of Representatives.
EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 20, 1828.

GEO. IZARD.

An act defining the boundary line between the counties
of Pulaski and Conway.

Sec. 1. *Be it enacted by the General Assem-
bly of the Territory of Arkansas,* That, in lieu
of the line now established between the coun-
ties of Conway and Pulaski, on the north side
of the Arkansas river, that the following is, and
shall be, the dividing line between said counties,
viz: Beginning at a point on Little Red river
where the range line between townships eight
and nine crosses said river; thence south with
said range line to the line between townships
seven and eight; thence west with said town-
ship line to the range line between ranges ten
and eleven; thence south to the township line
between townships five and six; thence west
with said township line to the range line be-
tween ranges twelve and thirteen; thence south
with said line to the township line between
townships four and five; thence west with said
township line to the range line between ranges
thirteen and fourteen; thence south with said
range line to the township line between town-
ships three and four; thence west with said

Bound'ry line
between Pu-
laski & Con-
way counties.

township line to the Arkansas river, and thence with said river to where the boundary line between said counties now strikes said river on the south side.

Sec. 2. *And be it further enacted*, That the country north-west of said line, shall be considered as Conway county; and that the country south-east of said line, be considered as Pulaski county.

Former acts repealed. Sec. 3. *And be it further enacted*, That all acts, and parts of acts, coming within the purview of this act, be, and the same are hereby, repealed.

Sec. 4. *And be it further enacted*, That this act shall take effect, and be in force, from and after the first day of December next.

JOHN WILSON, *Speaker*
of the *House of Representatives*.

EDWIN T. CLARK, *President*
of the *Legislative Council*.

Approved: October 20, 1828.

GEO. IZARD.

An act permanently to locate the seat of justice for the county of Lawrence.

Commissioners for C.H. & jail of county of Lawrence. Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That William Thompson, of the township of Lebanon, Samuel Gibson, of the township of Strawberry, John Wells, of the township of Union, John Bridges, of the township of Spring River, Fielding Stubblefield, of the township of Davidson, William Jarrett, of the township of Columbia, and John Rodney, of the township of Carrant, be, and they are hereby, appointed commissioners of the court-house and jail, within and for the county of Lawrence.

Sec. 2. *Be it further enacted*, That the said commissioners, before entering on the duties of their office, shall take an oath or affirmation, ^{Oath} before some judge or justice of the peace, that they will truly and impartially locate the seat of justice for said county, as little as may be to the prejudice of a majority of the people of said county, taking into consideration donations, future divisions, and the convenience of the people of said county.

Sec. 3. *Be it further enacted*, That the said commissioners, or a majority of them, when qualified as aforesaid, shall have full power, and they are hereby authorized, to select the most ^{Duty of said commissioners.} suitable site for the seat of justice for said county, and to locate the seat of justice as little as may be to the prejudice of the majority of the inhabitants of said county, taking into consideration donations, future divisions, and the convenience of the inhabitants of said county, as aforesaid.

Sec. 4. *Be it further enacted*, That, if said commissioners, or a majority of them, shall select any other place than the present seat of justice, on which to locate said seat of justice, ^{To procure sufficient title to the land on which they may locate the seat of justice.} it shall be the duty of said commissioners, or a majority of them, to take or procure a good and indefeasible title in fee simple, to themselves and their successors in office for the use of said county of Lawrence; or if the said site so selected shall be on any of the public lands ^{May enter the land which they may select according to act of congress.} subject to sale, then they, or a majority of them, shall or may enter the same with the proper register of the land-office, in the right of said county, as a pre-emption, according to the act of congress in such cases made and provided; and whenever said commissioners, or a majority of them, shall report to the circuit court, that ^{To report to circuit court.} they have selected a seat of justice other than the present, and that they have a house for the

reception of such court, then said court shall record said report, and adjourn to said seat so selected; and all process and proceedings, both civil and criminal, which may be there proceeding in said court, shall have day, and be tried, at the seat of justice so selected as aforesaid.

May divide the seat which they shall select into lots and sell the same.

May receive donations.

To dispose of public buildings.

May locate on land not offered for sale, and purchase when offered for sale.

Sec. 5. *Be it further enacted*, That the said commissioners, or a majority of them, shall have full power and authority to survey and subdivide any land which they may select as aforesaid, into town lots; or other quantities, reserving the necessary site for a court-house and jail, and sell the same at public or private sale, as they may, or a majority of them may, think most conducive to the interest of said county; and the said commissioners, or a majority of them, are hereby authorized to receive any donations or subscriptions which may be offered to them, and to apply any moneys which may come to their hands, as commissioners, towards building a jail and court-house at said seat of justice, so to be selected as aforesaid, and to erect any such building as they may think best for the interest of said county; and they shall be authorized to make what disposition of the present public buildings they may think proper for the benefit of said county of Lawrence.

Sec. 6. *Be it further enacted*, That if said commissioners shall select any of the public lands that have not been offered for sale, that they, or a majority of them, may locate said seat of justice, and make report as aforesaid, and subdivide and sell the same as aforesaid, and apply the proceeds of such sale to the purchase of the lands as aforesaid, whenever the same may be offered for sale.

Sec. 7. *Be it further enacted*, That said commissioners, or a majority of them, shall have power to meet at such times and places as they may think most convenient and proper for

the purposes aforesaid; and for each day they may be necessarily employed in the duties aforesaid, they shall receive one dollar each, out of any money in their hands, not otherwise appropriated. Compensation.

Sec. 8. *Be it further enacted*, That said commissioners shall render an account, annually, to said circuit court, of all moneys which may come to their hands, as such commissioners, as aforesaid; and if, at any time, the office of any of said commissioners shall become vacant, either by death, resignation, or removal, the said circuit court shall be authorized to fill such vacancy, by appointment of an inhabitant of the township where such vacancy may happen. To account to and with the circuit court.

Sec. 9. *Be it further enacted*; That all laws, or parts of laws, inconsistent with, or repugnant to, this act, be, and the same are hereby, repealed. Other acts inconsistent with this act repealed.

Sec. 10. *Be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the *House of Representatives*.

EDWIN T. CLARK, *President*
of the *Legislative Council*.

Approved: October 20, 1828.

GEO. IZARD.

An act transferring the records and suits remaining in the circuit court of Loveley county to the circuit court of the county of Washington, and for other purposes, and to appoint commissioners to locate the seat of justice for Washington county.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That it shall be the duty of the clerk of the circuit court for the county of Loveley, to transmit to the clerk Clerk of Loveley co'y. to deliver to the clerk of

Washington
all records,
&c. in his
office.

of the circuit court of the county of Washington, all the records, dockets, vouchers and other papers, remaining in the office of the clerk of the circuit court for the said county of Loveley; and it is hereby made the duty of the clerk of the circuit court of the said county of Washington, to receive and preserve the same; and in all cases where suits remain undetermined in the county of Loveley, they shall have day, and be tried, in the circuit court of the county of Washington, and the same proceedings shall be had thereon as might or could have been had in the circuit court of the county of Loveley.

Duty of the
sheriff of
Loveley.

Sec. 2. *And be it further enacted,* That it shall be the duty of the sheriff of Loveley county to settle with the circuit court of the county of Washington, all moneys which may be found due by him to the county of Loveley.

Clerk of
Loveley to
deliver rec-
ords, &c. 30
days before
first term.

Sec. 3. *And be it further enacted,* That it shall be the duty of the clerk of the circuit court of the county of Loveley, to deliver the records and papers mentioned in the first section of this act, to the clerk of the circuit court for the county of Washington, at least thirty days before the first term of the circuit court in said county; and it shall be the duty of the sheriff of Loveley county to settle with the circuit court of Washington county, at the first term thereof, after the taking effect of this act.

Commission-
ers appointed
to locate the
seat of justice
in Washing-
ton county.

Sec. 4. *And be it further enacted,* That Lewis Evans, Larkin Newton, Samuel Vaughn, John Woody, and Israel Mars, be, and they are hereby appointed commissioners, to locate the seat of justice in Washington county.

Oath.

Sec. 5. *And be it further enacted,* That, before said commissioners shall enter on their duties as commissioners, they shall take an oath, justly and truly to locate the seat of justice of said county; as little to the prejudice and injury of a majority of the people of said coun-

ty, before some justice of the peace or judge of the court; and after being so qualified, they shall proceed to select a place, and locate the seat of justice in said county, or a majority of them to say, which shall be the place selected.

Sec. 6. *And be it further enacted*, That the commissioners, after agreeing on a place, or a majority thereof, they shall make such arrangements as they may deem necessary for the accommodation of the court of said county; and for every day they may be engaged in discharging their duty as commissioners, they shall be entitled to one dollar.

Sec. 7. *And be it further enacted*, That this act shall take effect, and be in force, from and after the first day of November next.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 20, 1828.

GEO. IZARD.

An act supplementary to "an act to locate the seat of justice in the county of Conway."

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That Thomas White and Lewis Jones, of Welborn township, and Rodney Earheart and Peter Kuykendall, of Cadron township, and David McElmurry, of Hardin township, be, and they are hereby appointed commissioners, to locate the seat of justice in the county of Conway.

Sec. 2. *And be it further enacted*, That the commissioners hereby appointed, shall take the same oath, possess the same powers, per-

form the same duties, and receive the same compensation, as the commissioners heretofore elected and appointed, by the act to which this is a supplement.

To meet on
the 2d Monday
of Nov.

Sec. 3. And be it further enacted, That the commissioners hereby appointed to locate the seat of justice of said county, shall, on the second Monday of November next, assemble together at the present place of holding the court in and for said county, and proceed to make the said location without delay; and it shall be their duty, in body, to view, and personally examine, whatever place they may deem proper for the location.

Shall make a
final location
before the 1st
day of Dec.

Sec. 4. And be it further enacted, That the said commissioners shall make a final location, on or before the first day of December next, or as soon thereafter as practicable, and shall proceed to discharge the duties imposed by the act to which this is a supplement.

Majority shall
decide all
questions re-
lating to their
duty.

Sec. 5. And be it further enacted, That a majority of the commissioners meeting at the time appointed, shall locate, and that a majority of commissioners at all meetings shall always rule.

Any prior lo-
cation to be
void.

Sec. 6. And be it further enacted, That if any location has been made by the commissioners heretofore elected, the same shall be, and is hereby, rendered of no effect.

Previous acts
repugnant to
this act re-
pealed.

Sec. 7. And be it further enacted, That all acts, and parts of acts, repugnant to, and inconsistent with, this act, be, and the same are hereby, repealed; and that this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*

of the House of Representatives.

EDWIN T. CLARK, *President*

of the Legislative Council.

Approved: October 20, 1828.

GEO. IZARD.

An act supplementary to an act, entitled "an act permanently to locate the seat of justice in the county of Clark," approved October 23d, 1827.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas,* That so soon as it shall be certified to the circuit court for the county of Clark, by the commissioners, or a majority of them, appointed under the act to which this is a supplement; that a sufficient house is provided for that purpose, on the west half of the north-west quarter of section twenty-three, in township seven south, in range twenty-one west, to adjourn the said court thereto, which is thenceforth hereby made the permanent seat of justice in and for the said county.

Commissioners of Clark co. to report a house in readiness for the circuit court.

Sec. 2. *Be it further enacted,* That it shall be the duty of the clerk of the circuit court for said county, as soon as practicable after the adjournment thereof, as aforesaid, to remove all papers, vouchers, and records, belonging, or appertaining, to his said office, to the place hereby established for holding courts in said county, and keep his office within three miles, at least, of said seat of justice; and all suits, and process, and suits pending that are, or may be, returnable at, or near, the house of Adam Stroud, on the south-east quarter of section twenty-eight, in township seven south, in range twenty-one west, at the time of the adjournment of said court, as is provided for by this act, shall have day, be returnable to, and in all respects have the same effect, and be acted on and considered, in the same manner, at the place adjourned to, on said tract, as though the act to which this is a supplement had never passed.

Clerk of said court to remove all records, &c. to place hereby established.

All process previously issued returnable to the place hereby established.

Sec. 3. *Be it further enacted,* That William Gentry be, and he is hereby, appointed a commissioner for the county of Clark, in the room of Lee Pettit, with all the privileges, and subject to the same duties in every respect, as were

Commissioner appointed in room of Lee Pettit.

imposed on the commissioners of said county by the act to which this is a supplement.

Powers of
commission-
ers not im-
paired by this
act.

Sec. 4. *Be it further enacted*, That the change hereby required to be made, of the seat of justice in Clark county, shall in no wise affect the duties, rights, or privileges, of the commissioners of said county; but they shall be and remain, in all respects, the same as are pointed out under the act to which this is a supplement.

Sec. 5. *Be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 20, 1828.

GEO. IZARD.

An act to legalize the official acts of J. M. Spalding, and for other purposes.

Whereas, it has been represented to the general assembly, that John M. Spalding was commissioned as a justice of the peace for the township of Massard, and that there exists no such named township, and that the commission should be for Upper township, as designated by law—

Acts of J. M. Spalding made valid. Sec. 1. *Therefore, be it enacted by the General Assembly of the Territory of Arkansas*, That the official acts of John M. Spalding, acting justice of the peace, be valid and stand in full force and effect, as if no such mistake had occurred.

Sec. 2. *And be it further enacted*, That John J. Cook and Cook and James Walker, administrators of the J. Walker au-estate of Daniel Cook, deceased, be, and they

are hereby, authorized to pay over any moneys thozized to they have in their hands, as administrators of pay over mo^{re} the said Daniel Cook, deceased, to the legal re-ney, &c. to le- presentatives of the same, and the receipt shall gal represent- atives of Dan- be the voucher for the amount so paid. iel Cook.

Sec. 3. *And be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the *House of Representatives*.
EDWIN T. CLARK, *President*
of the *Legislative Council*.

Approved : October 20, 1828.

GEO. IZARD.

An act to locate the seat of justice in and for the county of Sevier, and for other purposes.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That James Halman, Joseph Ladd, George T. Boring, David Clark, and Levi Davis, be, and they are hereby, appointed commissioners to locate the seat of justice in and for the county of Sevier. Commissioners appointed to locate the seat of justice in Sevier co.

Sec. 2. *Be it further enacted*, That said commissioners, or a majority of them, as soon as may be practicable after the taking effect of this act, shall proceed to select the most eligible and convenient place for a county seat in the county aforesaid ; and when so selected, and a house prepared for the purpose of holding court thereat, the same shall be deemed in law the seat of justice for the county of Sevier ; and the circuit courts for said county shall be holden at said seat of justice, so soon as the said commissioners shall report to the judge of the circuit court, that a sufficient house is prepared for that purpose. Their duties.

To report to the judge of the circuit court.

Sec. 3. *Be it further enacted,* That the said commissioners shall proceed to let out, to the lowest bidder, the building of a court-house, at the said seat of justice, and shall, previous to entering into any contract for the building of said court-house, give at least thirty days notice, in five of the most public places in said county, setting forth their intentions to let out said contract, and at the same time setting forth the size and dimensions of said building, and shall take from the undertaker of said building, bond and sufficient security, in double the sum contracted for, that they will faithfully perform the contract so entered into with said commissioners.

To let out to lowest bidder the building of the C. H.

Give notice.

To take bond of undertaker.

Sec. 4. *Be it further enacted,* That said commissioners shall open a book to receive donations and subscriptions to pay for the building of said court-house, and if the donations and subscriptions shall be insufficient to pay for said building, the said commissioners shall be, and they are hereby, authorized to draw on the county treasury for such sum as may be sufficient to complete said building; *provided, however,* said building shall not cost more than one hundred and fifty dollars.

Shall receive donations and subscriptions.

May draw on county treasury.

Sec. 5. *Be it further enacted,* That said commissioners, before entering on the duties assigned them by this act, shall take an oath, before some judge or justice of the peace, that they will faithfully perform the duties assigned them by this act.

Oath.

Sec. 6. *Be it further enacted,* That, as soon as may be practicable, after the taking effect of this act, the clerk of the circuit court for the county of Hempstead shall make out a complete statement of the county treasury; and if it shall appear, on a liquidation of the debts and credits of said county, that there is a balance in favor of said county of Hempstead, it shall be the

Duty of clerk of Hempstead county.

duty of the sheriff of said county to issue certificates, not exceeding ten dollars each, in favor of the county of Sevier to the amount of one-eighth part of the balance so found, which said certificates shall be made payable to the sheriff or treasurer of the county of Sevier, and it shall be the duty of the sheriff of the county of Hempstead to pay the same, on demand; and if the said sheriff of Hempstead county should neglect or refuse to pay the same, on demand, it shall be the duty of the circuit court, on motion of the prosecuting attorney, to enter judgment against said sheriff, with cost, and twenty-five per cent. damages, on said amount, unless said sheriff shall make it appear that the money belonging to said county was not in his hands.

Duty of sheriff of Hempstead.

Circuit court to enter judgment against the sheriff of Hempstead on his failure to pay over said money.

Sec. 7. *Be it further enacted*, That, so soon as may be practicable, after the taking effect of this act, the clerk of the circuit court for the county of Miller shall proceed, in the same manner as the clerk of the circuit court of the county of Hempstead is required by the preceding section of this act, to liquidate the debts and credits of the county of Miller, and if, on a complete adjustment there should be a balance in the treasury of said county, it then shall be the duty of the sheriff of the county of Miller to issue certificates for the one-third part of said balance, in the same manner that the sheriff of the county of Hempstead is required to do, by the preceding section of this act; and in the event of his failing to pay over to the sheriff of the county of Sevier the amount of the certificates so issued, he, the said sheriff of the county of Miller, shall be proceeded against in the same way that the sheriff of the county of Hempstead would be proceeded against in the event of his failure to comply with the requisitions of the preceding section of this act.

Duty of the clerk of Miller circuit court.

Duty of the sheriff of Miller county.

His liability.

Sec. 8. *And be it further enacted*, That the

Compensation of commissioners.

said commissioners shall receive, for each and every day they may be necessarily engaged in the discharge of their duties as commissioners, to be paid out of the county treasury, the sum of one dollar per day.

Extension of the western boundary of Miller co'y.

Sec. 9. *And be it further enacted*, That the western boundary line of Sevier county shall be extended as follows, to wit: commencing on Red river, on the north bank where the Choctaw line strikes the same; thence up said river to the mouth of Mill creek; and thence up said creek to its source; and thence south to the southern boundary line of this territory; thence east with said line to the present boundary of said county, and that all that portion of country within said bounds be attached to, and made a part of, the county of Sevier.

Sec. 10. *And be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the *House of Representatives*.
EDWIN T. CLARK, *President*
of the *Legislative Council*.

Approved: October 22d, 1828.

GEO. IZARD.

An act for the relief of Izard county.

Duty of clerk of Independence, and of sheriff of Independence and Izard counties, in apportioning county funds between said counties.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That the clerk of the county of Independence shall make out, on or before the first day of January next, a full and just amount of all the money collected for county purposes for the year one thousand eight hundred and twenty-five, in the county of Independence, up to the first day of January, one thousand eight hundred and twenty-six, and transmit a transcript of the same to the

sheriff of Izard county, who, on the receipt of the same, shall act, in conjunction with the sheriff of Independence county, and proceed to say what proportion was paid into the county treasury of Independence in 1825, by the citizens then residing within the bounds of what is now Izard county, and the amount so ascertained as due to the county of Izard, shall be paid over, by the sheriff of Independence county, (after deducting the expenses of assessing and collecting the same), to the sheriff of Izard county, for the use of said county, out of any moneys not otherwise appropriated, and the receipt of the sheriff of Izard county shall be a sufficient voucher to the sheriff of Independence for the same.

Sec. 2. *And be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved : October 22d, 1828.

GEO. IZARD.

An act farther to regulate the payment of cost in criminal and penal cases.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That each and every witness who may attend at the trial of any penal or criminal case, in any court of record in this territory, shall receive, for every day he, she, or they, shall attend, the sum of one dollar per day, and the sum of five cents for every mile they may travel in going to, and returning from, said court. Compensation to witnesses in criminal cases.

Paid out of county treasury when there is no conviction.

Proviso.

Account to be submitted to court.

Proviso.

Persons convicted not being able to pay cost paid out of the county treasury.

Proviso.

In certain cases costs paid out of territorial treasury.

Fees to be allowed by court and certified by clerk.

Sec. 2. *And be it further enacted*, That in all cases in which there is not a conviction, the aforesaid fees shall be paid out of the county treasury; *provided*, however, that any person claiming any fees under the provisions of this act, shall make out an account in writing, stating the number of days he, she, or they, may have attended, and the number of circular miles he, she, or they, may have travelled, in going to, and returning from, said court, which said account shall be submitted to the court and allowed, only on the affidavit of the witness, or some other creditable person; *provided*, further, that no person shall be entitled to fees under this act, who has not been regularly subpoenaed or recognized to attend the court.

Sec. 3. *And be it further enacted*, That, in all cases of conviction, if the person convicted shall not be able to pay the costs accruing on the trial, then and in that case the county shall pay the costs, in the manner and form as aforesaid; *provided*, that nothing in this section shall be so construed [as] to exonerate such person or persons convicted, from the payment of said costs, out of any property they may thereafter acquire, which in all cases shall be paid into the county treasury, where said costs may have been paid out of the same.

Sec. 4. *And be it further enacted*, That, where any person accused of any crime or penal offence, and is put upon his trial for the same, in any of the counties of this territory, who may not have been an inhabitant of said county at the time of committing the offence or crime, then and in that case the costs accruing on said trial shall be paid out of the territorial revenue.

Sec. 5. *And be it further enacted*, That in all cases of this kind, all persons claiming fees shall have their accounts allowed as aforesaid, whereupon the clerk of the circuit court shall

make out a certificate for the same, which said certificate, when presented to the auditor, shall be audited, and paid by the treasurer, as other accounts are now audited and paid. How paid.

Sec. 6. *And be it further enacted*, That all acts, and parts of acts, repugnant to, or inconsistent with, this act, be, and the same are hereby, repealed. Repugnant acts repealed.

Sec. 7. *And be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the *House of Representatives*.
EDWIN T. CLARK, *President*
of the *Legislative Council*.

Approved: October 22, 1828.

GEO. IZARD.

An act attaching a part of the country acquired by treaty from the Cherokees to the counties of Izard, Independence, and Conway.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That all that tract of country, bounded as follows, to wit: beginning on White river, at a point where the line dividing the counties of Independence and Izard intersects the same; thence south-west to Little Red river; and thence down and with said river to the Cherokee boundary line; thence with the said line to White river; thence up White river to the place of beginning, be, and the same is hereby, attached to, and made a part of, the county of Independence. Addition to Independence county.

Sec. 2. *And be it further enacted*, That all that tract of country, bounded as follows, to wit: beginning on White river, at a point where the present boundary line between the counties of Independence and Izard intersects the same; Enlargement of Izard co'y.

thence south-west to the dividing ridge between Little Red river and the Arkansas ; thence up and with said ridge to the western boundary of range twenty-five west of the fifth principal meridian ; thence north to the southern boundary line of the state of Missouri ; thence with said line, east, to where the same last intersects White river ; thence down White river to the place of beginning, be, and the same is hereby, attached to, and made a part of, the county of Izard.

Extension of
the boundary
of Conway
county.

Sec. 3. *And be it further enacted*, That all that part of the country acquired from the Cherokees, lying east of a certain line commencing on the south bank of the Arkansas river, at the mouth of Petit Jean creek, and running due north to Little Red river, be added to, and made [a] part of, the county of Conway.

Sec. 4. *And be it further enacted*, That this act shall take effect, and be in force, from and after the passage thereof.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 22, 1828.

GEO. IZARD.

An act attaching a part of the Cherokee country acquired by treaty to Crawford county.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That all that portion of the Cherokee nation, bounded and described as follows, to wit: commencing at the mouth of Petit Jean creek, on the south side of the Arkansas ; thence north to the dividing ridge between Arkansas and White ri-

Part of the
Cherokee
country add-
ed to Craw-
ford county.

vers; thence on a western direction with the dividing ridge, to a point where the northern boundary line of town twelve north intersects the western boundary line of the territory; thence south to the south bank of the Arkansas river be attached to, and made a part of, Crawford county.

Sec. 2. *And be it further enacted*, That this act shall take effect, and be in force, from and after the first day of November next.

JOHN WILSON, *Speaker*
of the House of Representatives.
 EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 22, 1828.

GEO. IZARD.

An act forming a judicial system for the Territory of Arkansas, and farther regulating the proceedings in chancery.

Whereas, by an act of Congress, passed the seventeenth day of April, 1828, entitled "an act providing for the appointment of an additional judge of the superior court for the territory of Arkansas, and for other purposes," power is given to the general assembly of this territory, to organize the several counties thereof into four judicial circuits, and to assign to each of said circuits one of the judges of the superior court, and to require the said judges to hold courts therein, and to define the jurisdiction of said courts and of the snperior court, in all cases except those wherein the United States are a party, &c. Therefore :

Preamble.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That, from Territory divided into circuits.
 and after the taking effect of this act, this territory shall be divided into circuits, as follows, to wit: the counties of Clark, Hempstead, Lafayette, Miller, and Sevier, shall compose the 1st circuit.

2d circuit. first; the counties of Pulaski, Conway, Crawford, and Washington, the second; the counties of Izaard, Lawrence, and Independence, the third; and the counties of Crittenden, Phillips, St. Francis, Arkansas, and Chicot, the fourth.

Jurisdiction of the circuit court. Sec. 2. *And be it further enacted*, That there shall be established, in each county of the respective circuits, a circuit court, with the following jurisdiction, to wit: original jurisdiction in all cases of one hundred dollars and upwards; appellate jurisdiction, agreeable to the laws of this territory, from decisions of justices of the peace; and exclusive original jurisdiction in chancery cases; and the exclusive cognizance of all criminal cases within their respective circuits; and also jurisdiction in all matters of a local nature, as fully, and to the same extent, as is now, and has been, exercised by the circuit courts, under the existing laws of this territory; *provided*, that nothing in this section shall be so construed, as to authorize said courts to hold plea, or take cognizance, of any case arising under the laws of the United States.

Proviso.

Jurisdiction of the superior court. Sec. 3. *And be it further enacted*, That from and after the taking effect of this act, the superior court of this territory shall, in all cases at law and equity, be exclusively an appellate court, and shall not have original jurisdiction in any civil case, unless such as may arise under the laws of the United States, or take cognizance of any criminal cases alleged to have been committed within this territory; *provided*, that nothing in this section shall be so construed as to prevent said superior court from deciding all cases, civil or criminal, at law or in equity, that are now pending in said court, or returnable thereto.

Proviso.

Judges of S. C. to reside in. Sec. 4. *And be it further enacted*, That it shall be, and is hereby, made the duty of the

judges of the superior court, to reside in the circuits hereafter respectively assigned them, and to hold three terms, annually, of said circuit court, in each county of their respective circuits.

the circuits assigned them.
To hold three terms annually.

Sec. 5. *And be it further enacted, That* William Trimble, one of the judges of the superior court, is hereby assigned the first judicial circuit; and that Benjamin Johnson, one of the judges of the superior court, is hereby assigned the second judicial circuit; and that Thomas P. Eskridge, one of the judges of the superior court, is hereby assigned the third judicial circuit; and that James Woodson Bates, one of the judges of the superior court, is hereby assigned the fourth judicial circuit.

Each judge assigned to his respective circuit.

Sec. 6. *And be it further enacted, That, if* any of the judges aforesaid, or their successors in office, shall fail to comply with, or perform, all or any of the duties required of them by this act, the governor of this territory is hereby requested to notify the same to the president of the United States, setting forth the facts.

Governor to report neglect of duty on the part of the judges.

Sec. 7. *And be it further enacted, That it* shall be the duty of the judges of the superior court, immediately on the taking effect of this act, to nominate to the governor, a suitable person, in each county, as clerk, who shall be commissioned, and hold his office, for the term of four years, (unless sooner removed); which clerk, so appointed, shall perform the same duties, and be entitled to the same fees, that are now allowed by the existing laws to the clerks of the circuit courts.

Judges to nominate clerks to the gov'n'r.
Duty of cl'ks.
Fees.

Sec. 8. *And be it further enacted, That all* such process, motions, and actions, either civil or criminal, that are commenced in the circuit courts, now existing, or which hereafter may be commenced, before the taking effect of this act, shall be returnable, and have day, and be decided, by the circuit courts, by this act estab-

All matters pending in the present C.C's. shall have day and be tried by the courts established by this act.

lished; and all cases which are at issue, and stand for trial, in the circuit courts, now existing, shall, on the taking effect of this act, have day, and be decided, by the circuit courts hereby established, except for good cause shown.

Time of holding circuit courts in

1st circuit.

Sec. 9. *And be it further enacted*, That the circuit court in the first circuit, shall be held as follows, to wit: In the county of Clark, on the fourth Monday of April, on the third Monday of August, and the fourth Monday of December; in the county of Lafayette, on the first Monday after the fourth Monday in April, and the fourth Monday of August, and the first Monday after the fourth Monday of December; in the county of Sevier, on the second Monday after the fourth Monday of April, and the first Monday after the fourth Monday in August, and the second Monday after the fourth Monday in December; in the county of Miller, on the third Monday after the fourth Monday of April, and on the second Monday after the fourth Monday in August, and the third Monday after the fourth Monday of December; in the county of Hempstead, on the fourth Monday after the fourth Monday in April, and the third Monday after the fourth Monday in August, and the fourth Monday after the fourth Monday in December. And in the second judicial circuit: In the county of Washington, on the first Mondays of March, July, and November; in the county of Crawford, on the second Mondays of March, July, and November; in the county of Conway, on the third Mondays of March, July, and November; in the county of Pulaski, on the fourth Mondays of March, July, and November. And in the third judicial circuit: In the county of Lawrence, on the last Mondays of December, April, and August; in the county of Izard, on the first Monday of January, May, and September; and in the county of Independence, on the second,

2d circuit.

3d circuit.

Mondays of January, May, and September.

And in the fourth circuit: In the county of Crittenden, on the last Mondays of December, April, and August; in the county of St. Francis, on the first Mondays of January, May, and September; in the county of Phillips, on the second Mondays of January, May, and September; in the county of Arkansas, on the fourth Mondays of January, May, and September; in the county of Chicot, on the first Mondays after the fourth Mondays of January, May, and September.

Sec. 10. *And be it further enacted,* That, in case either of the said judges of the superior court shall, by death, sickness, or unavoidable necessity, be unable to attend or hold the court at any of the aforesaid terms, it shall be the duty of the governor to give notice to such other judge of the superior court as may be best able to attend, without interfering with the regular terms of his own circuit, requiring said judge to proceed to the circuit where such vacancy as aforesaid may occur, and hold the courts in said circuit; and it shall be the duty of the judge so notified to proceed and hold the courts in said circuit, provided the same will not interfere with the regular terms of his own court.

In case of the inability of one judge to hold courts, the governor may require another to hold his courts.

Sec. 11. *And be it further enacted,* That the said judges of the superior court shall have full power to exchange circuits, and to hold courts in any of the respective circuits of this territory hereby established.

Judges may exchange circuits.

Sec. 12. *And be it further enacted,* That it shall be the duty of the judges of the superior court, in holding the respective terms of the circuit court hereby established, to sit until all the business before them is disposed of, unless compelled to attend another court, or the regular terms of the superior court.

Duty of judges, &c.

Judge interested, case certified to S. Court.

The criminal relations of judges not tried by them.

Successor to take the place of present incumbent.

Former act repealed.

Defendant in chancery to file his answer on or before the last day of return term.

Sec. 13. *And be it further enacted*, That, in all cases where a judge of the superior court is concerned or interested in any suit or action now pending in any of the circuit courts, the parties in such suits may cause the same to be certified to the superior court, to be there tried and determined; and all suits or actions that may hereafter be brought, against any of the judges of the superior court, and all suits and actions brought by any of said judges, against others, or to which either of said judges are a party, shall be returnable to, and tried in, the superior court; *provided*, that no judge shall be compelled to hear and determine any criminal case, wherein the defendant or defendants is related to him, but shall cause the same to be certified to the superior court, to be there tried and determined.

Sec. 14. *And be it further enacted*, That in case of vacancy in any of the officers of the superior judges, by death, resignation, or removal from office, the person appointed to succeed, or fill such vacancy, shall be, and is hereby, assigned the circuit where such vacancy may occur.

Sec. 15. *And be it further enacted*, That an act passed by the general assembly of this territory, approved the twenty-fourth day of October, 1827, entitled "an act regulating the judicial system of the territory of Arkansas," be, and the same is hereby, repealed.

Sec. 16. *And be it further enacted*, That, from and after the taking effect of this act, in all chancery cases, the defendant or defendants shall file his answer on or before the last day of the term to which the summons is made returnable, any law to the contrary notwithstanding.

Sec. 17. *And be it further enacted*, That

this act shall take effect, and be in force, from and after the first day of November next.

JOHN WILSON, *Speaker*
of the *House of Representatives.*

EDWIN T. CLARK, *President*
of the *Legislative Council.*

Approved: October 22d, 1828.

GEO. IZARD.

An act in amendment to an act, entitled "an act preventing constables from selling negro slaves under execution, and for other purposes," passed at the session of 1827.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas, That,* in all cases where an attachment shall issue from a justice of the peace, for any sum under fifty dollars, against any person or persons, and the constable can find no other property than slaves to levy or distrain on said attachment, he may, and is hereby authorized to, levy or distrain any slave or slaves belonging to the person or persons against whom said attachment may have issued, and such levy or seizure shall be considered a levy on said slave or slaves, until the suit is determined under which said attachment issued.

Constables may levy attachments on slaves.

Sec. 2. *And be it further enacted, That* it shall be the duty of the justice of the peace, before whom a constable shall return an attachment, served agreeable to the provisions of the first section of this act, to proceed with said suit agreeable to law, and on rendition of judgment against the defendant or defendants in attachment, to furnish the plaintiff with a transcript of said judgment, who shall file the same with the clerk of the circuit court, and thereupon execution shall issue to the sheriff of the county, agreeable to the provisions of the act to which this is an amendment.

Duty of justice of the peace in such cases.

Constables
may levy an
execution on
slaves but
cannot sell.

Sec. 3. *And be it further enacted,* That in all cases where an execution shall issue from a justice of the peace, against any person or persons, and the constable can find no other property than slaves whereon to levy said execution, he may, and is hereby authorized to, levy said execution on any slave or slaves belonging to the defendant or defendants in execution, and such levy shall be considered a levy on such slave or slaves taken in execution as aforesaid, and the constable shall return said execution to the justice of the peace, who shall issue a transcript of the judgment on which said execution issued to the plaintiff, who shall file the same with the clerk of the court, whereupon execution shall issue agreeable to the provisions of the second section of this act.

Constable to
deliver to the
sheriff slaves
levied on as
aforesaid.

Sec. 4. *And be it further enacted,* That it shall be the duty of the constable, when an execution shall issue from the circuit court on any transcript as aforesaid, to deliver to the sheriff in execution any slave or slaves, that may have been taken in said attachment or execution, under the provisions of this act, and the sheriff shall proceed to sell the same, in conformity with the laws of this territory, and the act to which this is an amendment.

Sec. 5. *And be it further enacted,* That this act shall take effect, and be in force, from and after the first day of December next.

JOHN WILSON; *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved : October 22, 1828.

GEO. IZARD.

An act regulating the commissions of justices of the peace.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That in all cases hereafter, where any person shall receive a commission as justice of the peace, from the executive of said territory, he shall present the same to the judge of the circuit court of the proper county, while in session, or the clerk of said court, in vacation, and take the oath of office now prescribed by law, before said court, or before the clerk, in vacation, which shall be entered in either case by the clerk upon the record of said court. Justices of the peace to present their commissions and be qualified in open court, or in vacation.

Sec. 2. *And be it further enacted*, That when any person so commissioned shall resign, or his commission expire, he shall deliver the same to the circuit court, or the clerk, in vacation; and it shall be the duty of the clerk to note the same upon the records of his office, and immediately notify the governor of the same. Justices resigning required to deliver their commissions to clerk of circuit court.

Sec. 3. *And be it further enacted*, That when any person so commissioned, shall refuse to comply with the provisions contained in the first and second sections of this act, previous to his entering on the duty of his office, he shall, on conviction, forfeit and pay the sum of one hundred dollars, for the use and benefit of the proper county. Penalty on justice failing to qualify as aforesaid.

Sec. 4. *And be it further enacted*, That all acts, and parts of acts, repugnant to, and inconsistent with, this act, be, and the same are hereby, repealed. Repugnant acts repealed.

Sec. 5. *And be it further enacted*, That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 22d, 1828.

GEO. IZARD.

An act farther amending "an act for the regulation of the Town of Little Rock, and for other purposes,"

Sec. 1. Be it enacted by the General Assembly of the Territory of Arkansas, That any

Persons owning all the lots in one block authorized to stop the alley. person or persons, owning all the lots in any block or square of lots in the town of Little Rock, shall [be], and are hereby, authorized and empowered to close up the alley running through such block or square.

Sec. 2. And be it further enacted, That, where two or more persons, owning the whole number of lots in any block or square of lots in the said town of Little Rock, shall enter into a written agreement, to close up the alley running through their block or square, they shall be, and are hereby, authorized to close up the same, on their filing said agreement with the clerk of the board of trustees of the town of Little Rock, and the said alley shall remain closed during the pleasure of the owner or owners of said block or square, or a majority of them.

Owners of a block on entering into an agreement may close alley.

Sec. 3. And be it further enacted, That, whenever it may become necessary for the convenience of a majority of the inhabitants of said town of Little Rock, that any alley or alleys, closed under the provisions of this act, shall be opened, when the board of trustees shall order the same to be opened, and the person or persons owning said lots, on refusing to open the same, or failing to comply with the order of said trustees, shall forfeit and pay any sum not exceeding ten dollars, for every week they shall keep the same enclosed after said order issues, which sum shall be for the use of the town of Little Rock, and shall be sued for, and recovered, as in other cases of fines, &c.

Board of trustees may order alleys to be opened.

Penalty on refusal.

Sec. 4. And be it further enacted, That all acts, or parts of acts, repugnant to, or incon-

sistent with, the provisions of this act, be, and the same are hereby, repealed.

Sec. 5. *And be it further enacted*, That this act shall take effect, and be in force, from and after the passage thereof.

JOHN WILSON, *Speaker*
of the *House of Representatives.*

EDWIN T. CLARK, *President*
of the *Legislative Council.*

Approved: October 22d, 1828.

GEO. IZARD.

An act allowing compensation to the members of the present General Assembly and their Officers, and making appropriations for the year eighteen hundred and twenty-eight.

Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas*, That each and every member of the legislative council and house of representatives, except the president of the legislative council, and speaker of the house of representatives, shall be allowed the sum of four dollars per day; and that the president of the legislative council, and speaker of the house of representatives, shall be allowed each the sum of five dollars per day; and the secretary of the legislative council, and clerk of the house of representatives, each, the sum of five dollars per day; and the enrolling clerk shall be allowed the sum of five dollars per day; and each door keeper shall be allowed the sum of three dollars per day, for each day they may have served as such; and each member of the legislative council and of the house of representatives, shall be allowed one day's pay for every twenty-five miles they may have to travel, in going [to], and returning from, the seat of government, on the most usual route.

Compensation of members of the legislative council and house of representatives.

Compensation to clerks, &c.

Certificates of compensation given by the presiding members and clerks. Sec. 2. *And be it further enacted, That the compensation allowed as aforesaid, shall be certified by the presiding members of their respective houses; and the compensation of the presiding members as aforesaid shall be certified by their clerks; which certificate shall be sufficient evidence of claim, and the auditor thereupon shall issue his warrant to the treasurer, who shall pay the same as other debts.*

Appropriation to defray expenses of this session. Sec. 3. *And be it further enacted, That the sum of thirty-five hundred dollars is hereby appropriated, to pay the expenses of the present general assembly, and all the officers thereof; and the sum of forty-nine dollars be, and the same is hereby, appropriated to pay W. E. Woodruff, for stationary furnished the general assembly.*

Appropriation for publishing acts and journals of this session. Sec. 4. *And be it further enacted, That the sum of five hundred dollars is hereby appropriated, to pay the expenses of publishing the acts and journals of the present general assembly, and the expenses of distributing the same.*

Sec. 5. *And be it further enacted, That this act shall take effect, and be in force, from and after the passage thereof.*

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved: October 22, 1828.

GEO. IZARD.

An act specifying the times of holding the Superior Court.

Terms of holding the S. Court. Sec. 1. *Be it enacted by the General Assembly of the Territory of Arkansas, That the regular terms of the superior court shall be held on the second Mondays of April and Oc-*

tober, and shall continue in session until all the business before them is disposed of, unless compelled to attend their regular terms of the circuit courts.

Sec. 2. *And be it further enacted,* That this act shall take effect, and be in force, from and after its passage.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved : October 22d, 1828.

GEO. IZARD.

Be it resolved by the General Assembly of the Territory of Arkansas, That the frequent and unrestrained depredations committed by Indians, on the inhabitants of the south-west frontier of this territory, call loudly on the general government to afford to the citizens of that portion of Miller county, more adequate and effectual protection. Resolution in relation to Indian depredations on the citizens of Miller county.

Be it further resolved, That the governor of this territory be requested, to transmit a copy of the foregoing resolution to the secretary of war of the United States.

JOHN WILSON, *Speaker*
of the House of Representatives.

EDWIN T. CLARK, *President*
of the Legislative Council.

Approved : October 22, 1828.

GEO. IZARD.

ACT OF CONGRESS.

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An act providing for the appointment of an additional judge of the superior court for the territory of Arkansas, and for other purposes.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the president of the United States of America, by and with the advice and consent of the senate, to appoint and commission an additional judge of the superior court for the territory of Arkansas, who shall reside in said territory, and hold his commission for the term of four years.

An additional judge of sup. court of Ark. to be appointed, &c.

Legislature of Arkansas authorized to organize its counties into 4 judicial districts, &c.

Sect. 2. And be it further enacted, That, when said judge shall have been commissioned, the legislature of the territory of Arkansas shall be authorized to organize the counties of said territory into four judicial districts, and to assign to each of the four judges of the superior court of the territory of Arkansas one of said circuits or districts, and to require said judges to hold circuit or district courts in each county of their respective districts, at such place and time as the legislature aforesaid may appoint and designate.

In addition to holding circuit courts, judges to hold 2 terms annually, of superior court.

Sect. 3. And be it further enacted, That, in addition to holding district or circuit courts, as aforesaid, the judges aforesaid shall hold two terms annually, of the superior court, at the seat of government in said territory; and the legislature aforesaid shall be authorized, in all cases, except when the United States is a party, to fix the respective jurisdictions of the district and superior court. The United States' cases shall be tried in the superior court, in the manner that said cases are now tried.

Sect. 4. *And be it further enacted,* That the judges aforesaid shall be authorized to nominate and appoint, and the governor to commission, a clerk in each county of their respective districts, in such manner, with such powers, and for such term of time, as the legislature aforesaid may designate; but in no county shall the clerk of the superior court be appointed the clerk of the circuit court; and the compensation of said clerks, except in United States' cases, shall be fixed by the legislature aforesaid.

Judges to nominate and governor to appoint the clerks of counties.

Their compensation.

Sect. 5. *And be it further enacted,* That, when any party to a suit is aggrieved by a decision of a judge holding a district court, except in criminal cases, the party aggrieved shall be at liberty, by appeal, writ of error, or *certiorari*, to remove said suit to the superior court of said territory, for further trial; and the case thus brought up shall be tried by the judges, or any two of them other than the judge who made the decision in the district court.

Party aggrieved by decision of judge, &c. except in criminal cases, may remove suit to superior court, for farther trial.

Sect. 6. *And be it further enacted,* That the additional judge hereby authorized to be appointed shall receive the same salary now allowed by law to the judges of the superior court for the territory of Arkansas.

Additional judge to receive same salary as the other judges.

Sect. 7. *And be it further enacted,* That writs of error and appeal from the final decision of the superior court for the territory of Arkansas, shall be made to the supreme court of the United States, in the manner, and under the same regulations, as from the circuit courts of the United States, when the amount in controversy, to be ascertained by oath or affirmation of either party, shall exceed one thousand dollars.

Writs of error, &c. from decisions of superior court may be made to supreme court of U. S.

Sect. 8. *And be it further enacted,* That the act of the legislature of the territory of Arkansas, passed at the last session of the legislature of said territory, in relation to the courts of said territory, so far as the provisions of said act are

Act of legislature, relative to courts, not inconsistent, &c. affirmed.

not inconsistent with and repugnant to this act, be, and the same is hereby, affirmed until said legislature may alter or modify the same.

Sect. 9. *And be it further enacted,* That all acts coming within the purview of this act be, and the same are hereby, repealed; and that this act shall take effect, and be in force, from and after its passage.

Acts coming within the purview of this act, repealed, &c.

Approved: 17 April, 1828.

ERRATA.

The following errors (with the exception of the 6th, which was made by the printer,) occurred in transcribing the laws from the originals on file in the Secretary's office.

1. In page 6, delete the word "or," before the word "forfeiture."
2. In page 14, insert the word "and" in 5th and 7th lines of first sec. read "affidavit."
3. In page 15, for "and" read "or."
4. In page 21, delete the word "and" in 4th line.
5. In page 23, for "north-east," in 8th line of 1st sec. read "north-east."
6. In page 24, insert the word "and" after the word "That," in 3d line of 1st sec.
7. In page 32, delete the article "a," in the title of the act, 9th line from foot of page.
8. In page 38, the word "all," inserted in 2d line, is omitted in the original.
9. In page 39, 3d line of 1st sec. for "where" read "when."
10. In page 40, 2d line of 3d sec. for "where" read "when."
11. In page 41, 2d line of 4th sec. for "and" read "or."

TERRITORY OF ARKANSAS, }

PULASKI COUNTY, DECEMBER 3rd, 1828. }

I certify, that the foregoing Acts, commencing with "An act supplementary to an act passed at the session of 1827, entitled an act to locate the seat of justice of the county of St. Francis," and ending with a Resolution, "calling upon the General Government to afford protection to the people of Miller county," containing forty-five pages, passed at the called session of 1828. have been carefully compared with the originals, on file in my office, and are correctly printed, with the exception of the above errata from number one to eleven.

ROBT. CRITTENDEN,
Secretary of Arkansas Territory.

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